IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 772 OF 2007
IN
CRIMINAL APPEAL NO. 621 OF 2007

Subhedarsingh Shivmuratsingh Thakur ..Applicant

vs.

The State of Maharashtra ..Respondent

Mr. A.P. Mundargi, Senior Advocate with Mr. P.P. Runwal for applicant.

Mr. D.R. More, APP for State.

CORAM: B.H. MARLAPALLE,J.

Reserved on : October 23, 2007.

Pronounced on : October 29, 2007.

P.C.:

1. This is an application for being released on bail during the pendency of Criminal Appeal No. 621 of 2007. The applicant-accused has been convicted under Section 304 of IPC and sentenced to suffer RI for 10 years.

2. As per the prosecution case, the accused had

assaulted deceased Ghanshyam Vyas on 17/8/1998 at about 8.30 a.m. in front of his Cycle Shop and while under treatment, the said Ghanshyam Vyas died on 4/9/1998. The deceased and the accused were having their Cycle Shops adjacent to each other. The prosecution case is based on circumstantial evidence. I have perused the dying declaration at Exh.38 recorded by PW 9 - Sarjerao Jagdale as well as the oral depositions of PW 3 - Dr. Prakash Shinde, who was present at the time of recording Exh.38 - dying declaration, PW 4 - Rajendra Jain and PW 8 - Aarti Vyas.

3. Having heard the learned Senior Counsel for the applicant at length as well as the learned APP and having perused the reasoning set out by the trial court in support of the order of conviction and considering the Constitution Bench decision in the case of Laxman vs. State of Maharashtra **[JT 2002 (6) SC 313]**, I do not find any case to suspend the order of sentence and release the applicant on bail.

4. Hence, the application is rejected. Th learned Counsel for the applicant is at liberty to submit a private paper book and on its certification by the Registry, he is at liberty to apply for early hearing of the appeal.

(B.H. Marlapalle,J.)